



Transparency by Design Working Group

Exploratory Survey Findings Report

June 2023

This workstream is led by the UK Information Commissioner's Office and Brazil CGU.

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Key findings



Transparency is about increasing **trust** and enabling **public participation** in decision making



Access to information laws and measures to make public information **proactively available** are key to transparency



Guidance and effective **redress mechanisms** can facilitate access but **raising awareness activities** are equally key



Frameworks are in place to manage and preserve records but there is a **lack of a duty to document**



Digital solutions can support the right of access but are not free from risks and drawbacks

Key takeaways



Reactive openness and proactive transparency
feed each other



Access to information laws should keep pace with
technological developments



Regulators have a key role to play in fostering
transparency



Transparency is by design and by default



A lack of a duty to document risks creating
transparency gaps

Background

The Transparency-by-design Working Group (hereafter 'TbD WG') was established by mandate of the ICIC Executive Committee with the aim of advancing "global knowledge on, understanding of, and agreement on the principles underpinning 'transparency by design'".

In recent years, many governments across the globe have committed to becoming more transparent to increase citizens' visibility of governments' operations and delivery of public services. The basic idea underpinning most governments' transparency agenda is that – by allowing citizens to know what and how key decisions are made – citizens will be empowered to hold public officials and public authorities to account. As of 2019, 125 jurisdictions had enacted access to information laws or similar provisions ([UNESCO, 2019](#)). 78 countries have endorsed the [Open Government Declaration](#).

In this context, the Working Group designed a programme of work aimed at:

- Agreeing a common and workable definition of 'transparency' underpinned by globally agreed "principles";
- Establishing how to achieve 'transparency by design', ie identify those shared principles to be embedded in governments' initiatives at the design stage to ensure transparency begins at source;
- Defining implementing measures of the principles of transparency by design.

This workstream supports the achievement of one of ICIC's goals, namely to "promote the development and adoption of international standards in access to public information in all regions across the world, including the establishment of independent oversight bodies".

By analysing the measures put in place by jurisdictions to effectively implement the transparency commitments featuring in legislation, the ICIC aims to develop a taxonomy of good practice to guide governments and information commissioners (within the meaning of the ICIC Charter) to adopt solutions which achieve better accountability and transparency and encourage, or allow, greater citizens' participation in the public discourse.

Methodology

To achieve its objectives, the Working Group conducted a survey of the ICIC membership. The aim of the survey was to collect empirical data to answer the following overarching research questions:

- What are the key indicators and defining characteristics of transparency?
- How can governments and public bodies embed these characteristics at an early stage of the transparency cycle to achieve transparency by design?
- How can regulators facilitate this?
- Is there a 'desirable' level of transparency, i.e. how can we balance transparency with the need to safeguard other legitimate interests in society?
- How to measure the positive impact of TbD on service and public policy delivery?

The Working Group agreed and adopted the following working definition of transparency:

transparency is defined as enabling citizens to know what governments are doing, how key decisions are made and their operational delivery, through a variety of tools – from access to information laws, to making public data available in an accessible and re-usable format. The aim is to redress the information and power asymmetry between the public and government (Matheus, Janssen and Janowski, [2021](#); and Janssen and van de Hoven, [2015](#))

This was the definition used in the survey.

Structure of the survey

The survey comprised 17 questions and was divided in two parts.

The first part – questions 1 to 12 – included twelve closed multiple choice questions. Respondents were given the option of a free text box to further elaborate on their responses by giving concrete examples.

The second part – questions 13 to 17 – consisted of five open ended questions to give respondents the opportunity to share concrete examples of implementations of transparency measures. These questions were

aimed at identifying examples which could be used as case studies and to gather information about the success of implemented transparency measures and any lessons which could be learned from them.

The questions to the survey were not mandatory.

Analysis of the responses

The analysis of the responses was qualitative in nature and it is not meant to be statistically significant.

The survey was targeted at ICIC members.

The responses to the open-ended questions were thematically coded and analysed to track the common practices, issues and topics shared by respondents in relation to the question.

This was not a quantitative exercise. The analysis is not intended to be representative of the views of all ICIC members or the information commissioner's community as a whole.

Interpretation of findings

The analysis takes an inductive approach. That is, it sought to draw out concrete examples of common implementation measures of transparency. These will be used to inform the development of theoretical principles of 'transparency-by-design' – i.e. what measures should be adopted to ensure "that transparency requirements are considered when designing new systems, administrative processes and procedures." (Janssen et al., [2017](#): 3).

A key challenge in the interpretation of the findings – which is common in many comparative studies – is the extent to which it is possible to construe equivalence in the examination of concepts. This appeared clear when analysing the responses to certain questions, e.g. algorithmic systems.

A second key challenge, related to the above, was presented by the difficulty of analysing responses in different languages.

To the extent that this was possible, the author of this report has done their best to minimise inaccuracies and avoid misinterpretations.

The report is not a comprehensive repository of all the information shared by respondents as part of the survey.

Detail of findings

Respondents: geographical and jurisdictional distribution

At the time of the survey, the ICIC comprised 79 accredited members. Of these, 39 members responded to the survey. The response rate to the open ended questions in the second part of the survey was lower, with 29 members responding.

The table and graph below show the geographical distribution of respondents and their jurisdictional remit (i.e. national v regional).

Jurisdictional Remit		Geographical Area					
National	Regional	Africa	Asia	Europe	North America	Oceania	South America
26	13	3	3	10	7	2	14

Table 1

Overall, the highest number of responses were received from members in the South America region (14) followed by members in Europe (10) and North America (7). Only three responses were received from members in Africa and Asia, followed by Oceania (2 responses). To an extent, this reflects the current ICIC membership geographical representativeness (comparison between Figure 1 and Figure 2).

The findings are therefore relative to the number of participants in the survey and their geographical spread.

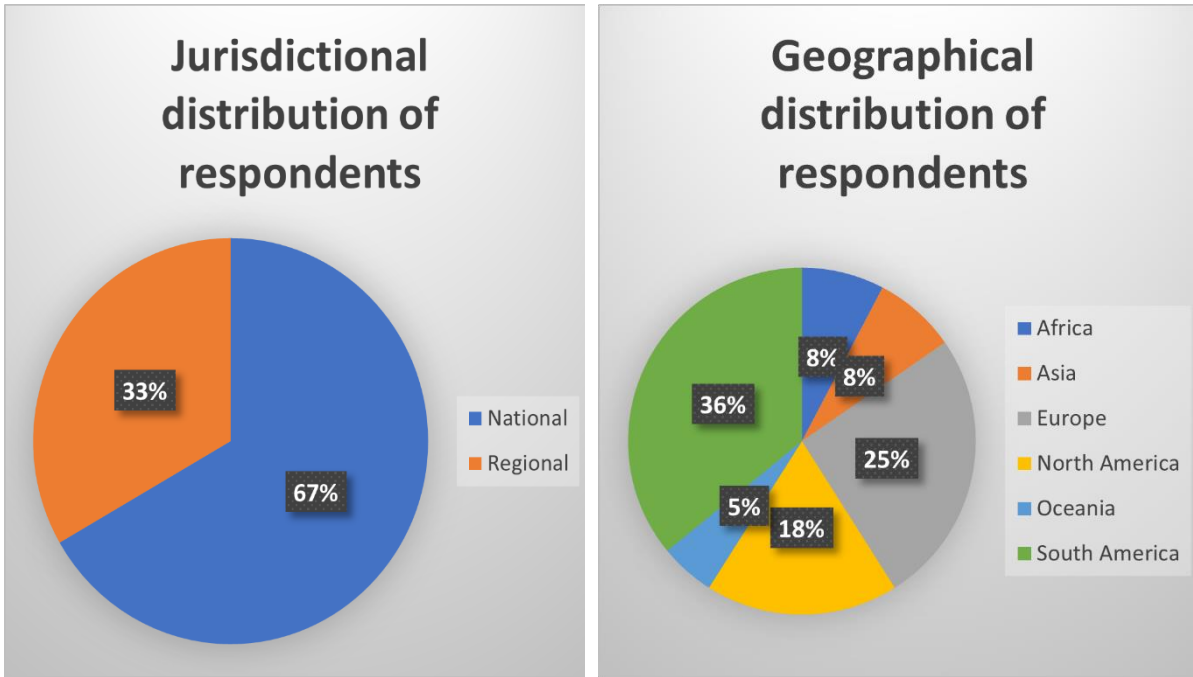


Figure 1

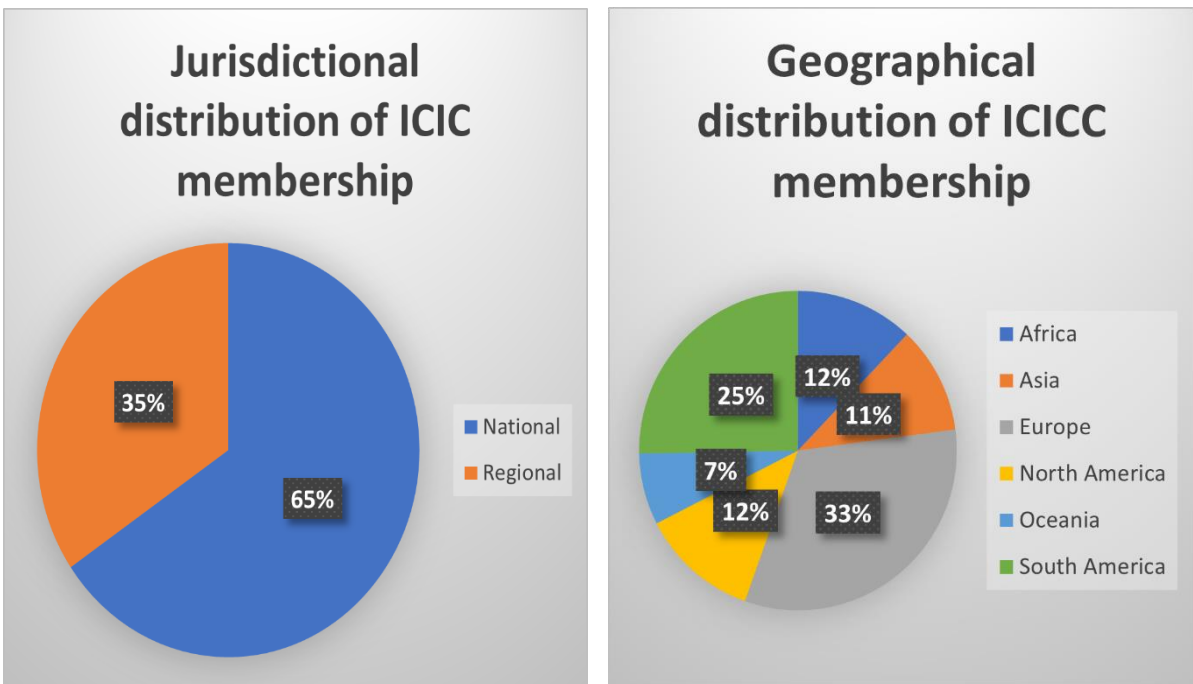


Figure 2

Part I: Questions 1 to 12

Part I of the survey comprised two sub-sets of questions.

The first sub-set (Qs 1 and 2) was intended to gather data about the rationale behind transparency and identify a baseline.

The second sub-set (Qs 3 – 11) was aimed at gathering what measures are in existence in reality to achieve transparency.

Question 1: What are the main reasons governments and public institutions should commit to be more transparent?

The aim of this question was to gain an understanding of the main perceived benefits of introducing transparency measures in governments and public institutions.

Respondents agreed that the primary two reasons for introducing transparency measures are:

- To increase trust in how and why decisions are made and public services are delivered (39 responses);
- Enable citizens participations in decision-making (38 responses).

These responses were closely followed by:

- Promoting democratic accountability;
- Fighting corruption and maladministration.

Out of 39 respondents to the question, 35 selected these options.

By contrast, the least selected responses were those options associated with the economic “pay-offs” of transparency, i.e.:

- fostering efficiencies in the delivery of public services (31 responses);
- stimulating economic growth by creating opportunities for developing new products through open data and public sector information (24 responses).

The findings reveal that transparency is perceived as:

- being conducive to higher levels of trust in governments and public institutions when making decisions and delivering public services;
- empowering citizens to be or become active participants in public decision-making processes.

However, the findings also show that there is another dimension of transparency which is considered important. This is the extent to which transparency measures are seen as enabling democratic accountability whilst allowing citizens to scrutinise how public money is spent.

What are the main reasons governments and public institutions should commit to be more transparent?	
To increase trust in how and why decisions are made and public services are delivered	39
To promote democratic accountability	35
To enable citizens participation in decision-making processes	38
To stimulate economic growth by creating opportunities for developing new products through open data and public sector information	24
To foster efficiencies in the delivery of public services	31
To fight corruption and maladministration	35

Table 2

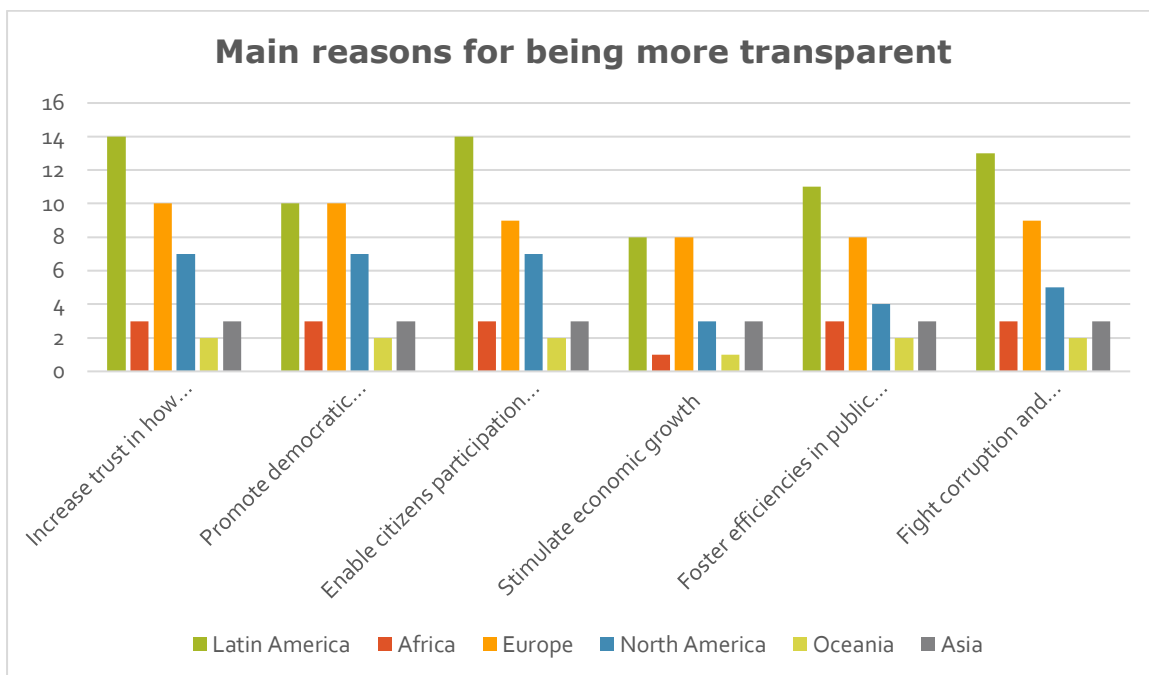


Figure 3

Question 2: As a minimum, what measures should be introduced to foster transparency?

The aim of this question was to identify a baseline of transparency measures. That is, those minimal requirements that governments and public institutions should adopt to foster transparency.

38 respondents selected open data initiatives, i.e. measures to make public information available freely and in a re-usable format.

This finding is interesting when compared to the responses given to question 1 which showed that open data was not necessarily perceived as a gateway to economic growth.

This response was closely followed by:

- access to public information laws (37 responses);
- duty to document and proactive publication of information (36 responses).

Explainability of algorithmic systems used to deliver public services was selected by a lower number of respondents (29). The difference seems to be accounted for by fewer members from North America and Europe selecting this option.

However, it is clear from the open text responses that – in those countries where algorithmic systems were being used when making decisions or delivering services – algorithm explainability was an important transparency measure.

As a minimum, what measures should be introduced to foster transparency?	
Access to public information laws or similar provisions (ATI laws)	37
Mandatory measures for the creation, keeping and proper management of public records (Duty to document)	36
Proactive publication of information on government processes, at national and local level	36
Measures to enhance transparency when outsourcing public service contracts	34
Easy to understand explanations of algorithmic systems used to deliver public services (algorithm explainability)	29
Measures to make public information available freely and in a reusable format (open data initiatives)	38

Table 3

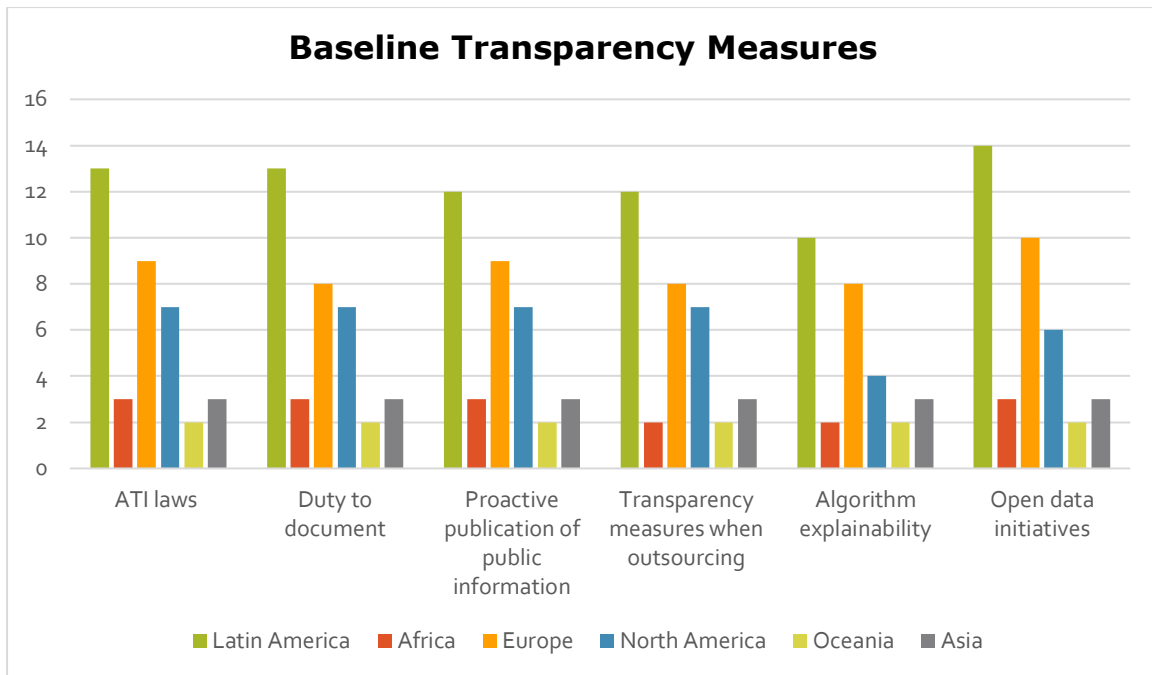


Figure 4

Question 3: What actions has your government taken to facilitate access to information held by public bodies?

This question aimed at gathering intelligence about existing reactive measures to enable access to public information held by public bodies.

The responses show that the majority of jurisdictions who responded had clear mechanisms in place to facilitate the public to request information from – and seek redress against – decisions made by public bodies.

However, responses about the existence and accessibility of redress against public bodies were lower (29 responses) compared to responses about the existence of systems to allow the public to make information requests. The difference is not too great.

Nonetheless, this could suggest that certain jurisdictions may lack routes to enable applicants to challenge public bodies' handling of a request.

The data also reveal that only 23 jurisdictions had implemented measures to ensure public bodies provide timely responses to information requests whilst only 20 respondents answered that there was a commitment to proactively publish responses to previous access to information requests ("disclosure logs").

What actions has your government taken to facilitate access to information held by public bodies?	
Implemented measures to improve the timeliness of responses to access to information requests	23
Committed to publish responses to access to information requests previously received ("disclosure logs")	20
Introduced systems to enable the public to submit access to information requests	33
Created effective and accessible mechanisms to enable the public to seek redress against public bodies	29

Table 4

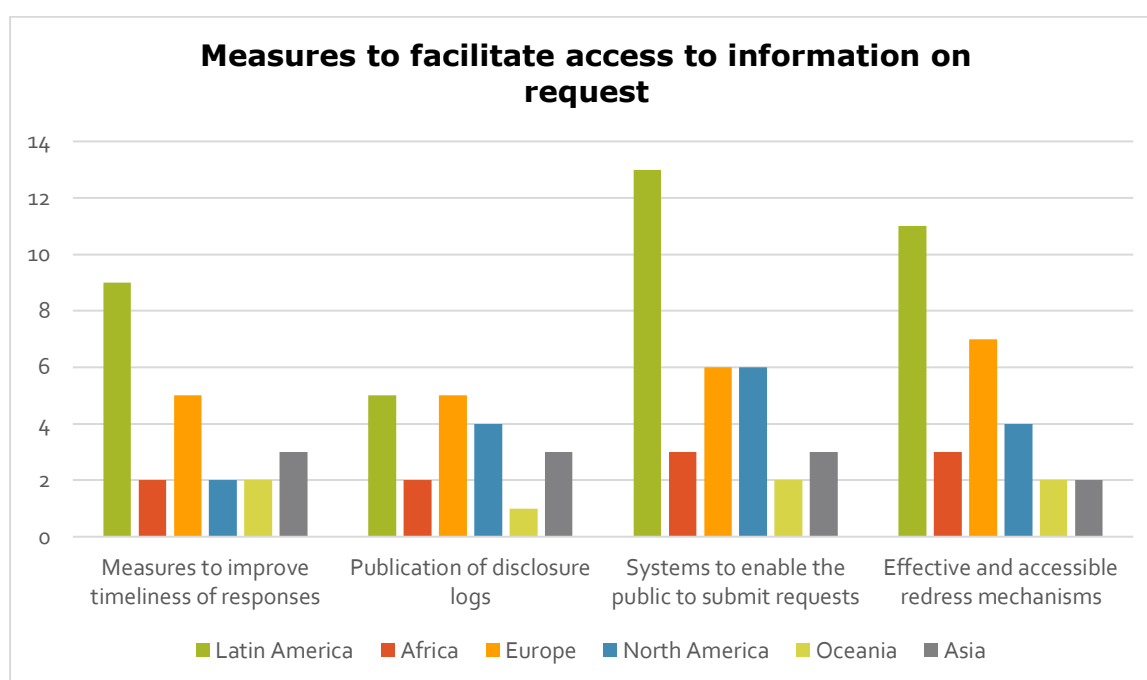


Figure 5

Question 4: What measures have been implemented to ensure equal access to public information across all sectors of the population, including vulnerable groups?

This question gathered data about measures aimed at minimising barriers to accessing public information, thereby ensuring equal access to all groups of the population.

The responses indicate that a key tool used to achieve this is through the provision of guidance in simple and accessible language. The guidance has a rights awareness function in that it aims at explaining to people

how they can exercise their right of access to public information. The use of clear and simple language is intended to broaden access to different groups of the population.

However, guidance is a “passive” tool which strongly relies on individuals making use of it.

The data indicates that the use of this tool does not appear to be complemented by the use of more proactive forms of outreach and engagement through rights-awareness activities.

Whilst 33 respondents said that they were providing guidance, only 17 respondents stated they were delivering engagement activities to proactively reach out to excluded and vulnerable groups.

Further, only 16 respondents answered that there were programmes in place aimed at raising awareness about access to information in school.

The second most selected option to this question was the existence of redress and free-to-use redress and appeal mechanisms as a way of facilitating equal access (28 responses). However, this is also a reactive tool which is only triggered when things go wrong and rely on people making proactive steps to use the system when they know it exists.

This seems to indicate a situation whereby jurisdictions are relying on more traditional tools which, in effect, guarantee and enable access to groups who are already aware of their rights or well-equipped to become so. However, less resources seem to be placed on those outreach activities which could bridge the gap with low rights-consciousness groups.

What measures have been implemented to ensure equal access to public information across all sectors of the population, including vulnerable groups?	
Provided guidance in simple and accessible language to explain how people can access public information	33
Delivered public and community engagement activities reaching out to excluded and vulnerable groups	17
Established a programme to raise awareness about access to information rights in schools, including through the inclusion in school curricula	16
Made available redress and appeal mechanisms which are easy and free to use	28

Table 5

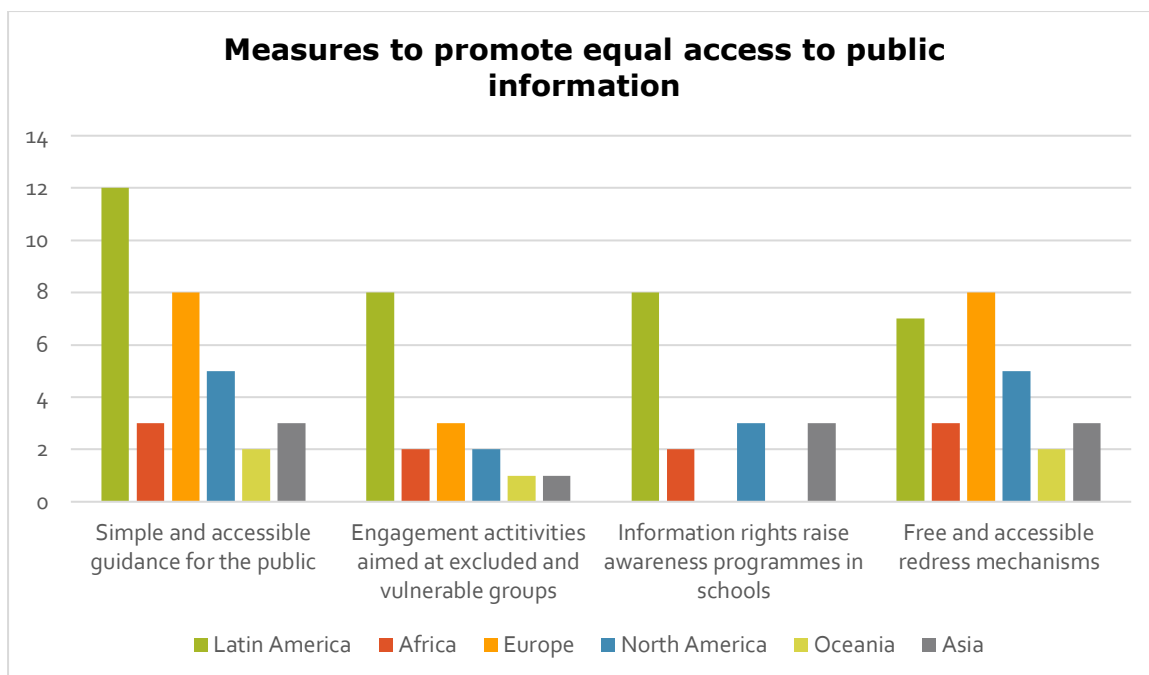


Figure 6

Question 5: In your country/jurisdiction, what is the framework in existence for managing public information and records?

As pointed out in the [Expert Paper "Leave no Trace"](#) published by Access Info Europe, there can be no effective right of access if public information is not recorded and documented in the first place.

The responses to this question seem to corroborate one of the "Leave no Trace" findings about the lack of specific legal frameworks requiring to document decision-making processes (Access Info Europe, 2018: 4).

The responses indicate that most surveyed jurisdictions have:

- a legislative framework governing the management and preservation of public records (34 responses);
- measures in place to prevent improper access, use or destruction of public records (29 responses).

However, only 24 respondents said there was a specific duty to document government decisions, at local and national level. This is an interesting finding when compared to the responses given to question 2. Here 36 jurisdictions responded that measures for the creation, keeping and proper management of public records ("duty to document") should be mandatory. This could indicate that members are alive to the risk of the right to access to public information being undermined by the absence of a corresponding duty to document decisions and create records. However, the evidence suggests that it is only in a relatively small number of

jurisdictions that a duty to document is actually in existence to complement the right of access.

These figures are also interesting when compared with the number of respondents (13) who selected the “Existence of an auditing framework to monitor information management practices” option.

This is because it seems to suggest that – even where systems are in place to either ensure records are created or a framework is in place to ensure they are managed or preserved – this is not necessarily coupled with the existence of monitoring mechanisms to evaluate compliance.

In your country/jurisdiction, what is the framework in existence for managing public information and records?	
Specific duty to document government decisions, at local and national level	24
A legislative framework governing the management and preservation of public records, including historical record	34
Existence of measures to prevent improper access, use or destruction of public records	29
Existence of mechanisms to manage situations where information is shared with third parties, including external contractors delivering public services	21
Existence of an auditing framework to monitor information management practices	13

Table 6

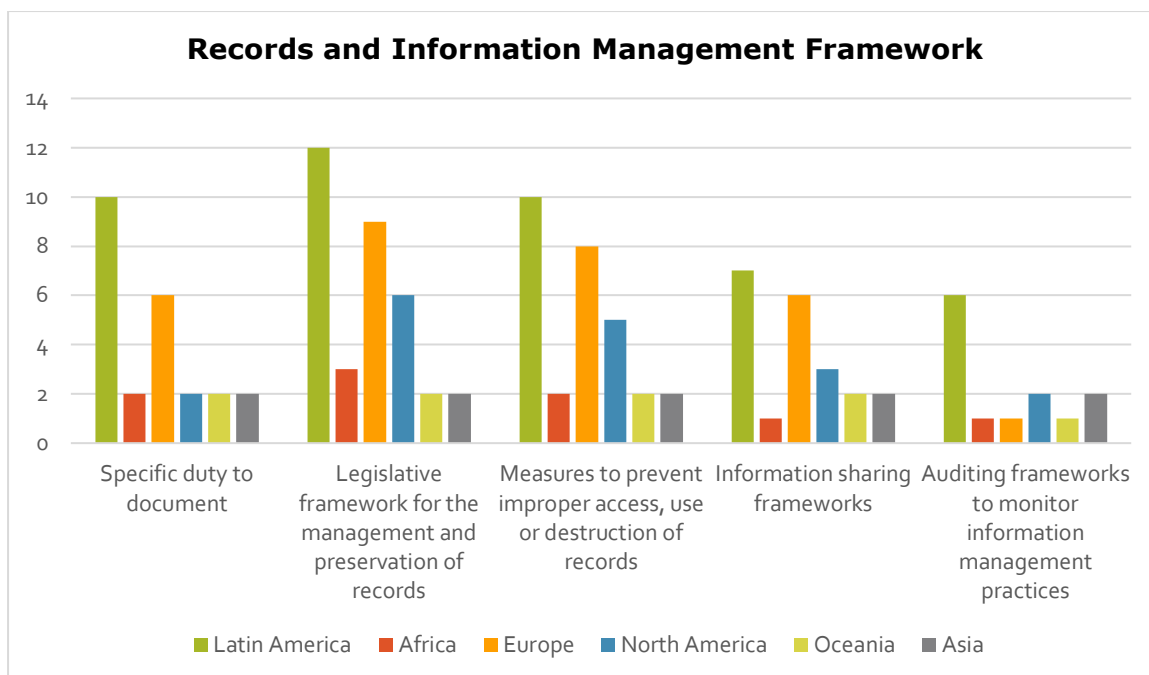


Figure 7

Question 6: In your country/jurisdiction, what type of information do public bodies and organisations have to make proactively available to the public?

This question was aimed at identifying those minimum classes of public information falling within the scope of proactive publication duties.

The most selected option – with 33 responses – was the “Information about how public money is spent”. This finding is consistent with the pattern emerged from the responses to question 1, i.e. transparency as an enabler of public scrutiny.

This response was closely followed by classes of information about:

- internal governance, including policies and procedures (28 responses);
- outsourcing of public services (27 responses);
- performance (26 responses).

Interestingly, only 13 respondents selected the option “Information about how decisions are made”. When compared with the responses given in answer to question 1, this could suggest a disconnect between the ideal of the purpose of transparency and actual implementation of measures aimed at achieving it.

The second least selected option – with 16 respondents – was “Information about meetings with external stakeholders”. This also seems to lend support to one of the findings in the “Leave no Trace” paper, i.e. few jurisdictions appeared to proactively publish this type of information (Access to Info Europe, 2018: 7).

In your country/jurisdiction, what type of information do public bodies and organisations have to make proactively available to the public?	
Information about how decisions are made	13
Information about how public money is spent	33
Information about outsourcing of public services	27
Information about meetings with external stakeholders	16
Information about performance	26
Information about internal governance, including policies and procedures	28

Table 7

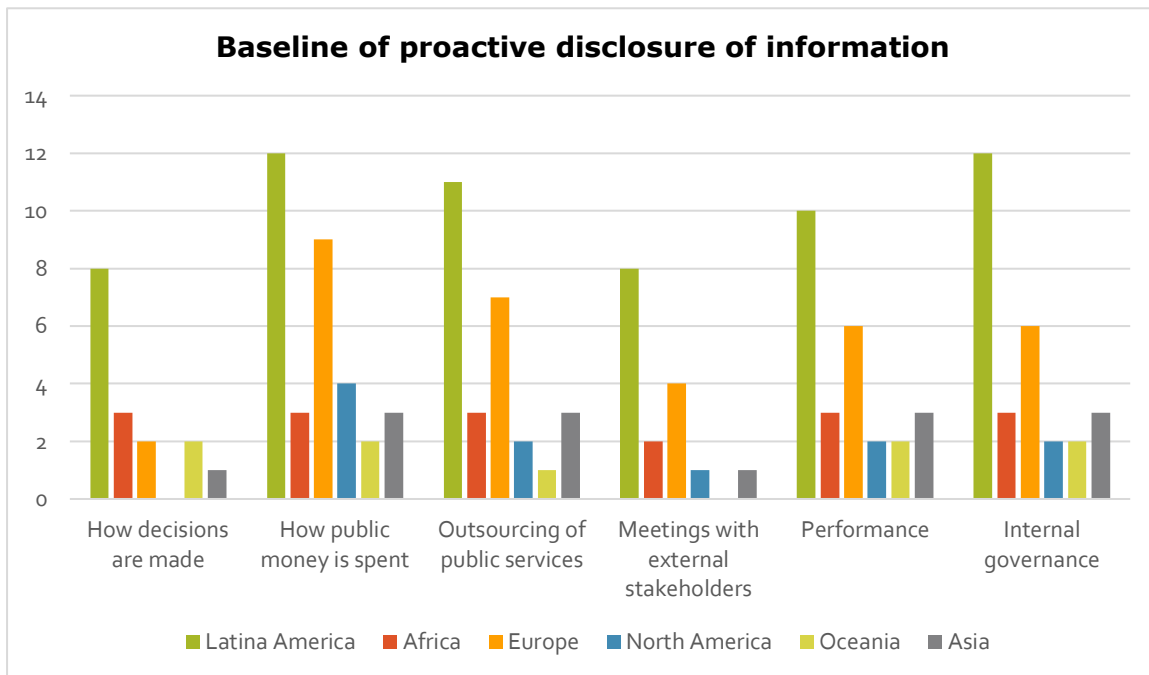


Figure 8

Question 7: What actions has your government taken to promote transparency when outsourcing public service contracts?

Amongst the measures aimed at fostering transparency in the context of outsourcing of public services delivery, the majority of respondents highlighted that a key measure was the requirement to proactively publish information on performance of public contracts (25 responses). This is largely consistent with the responses given to question 6.

This contrasts with the number of jurisdictions which have indicated that "suppliers and contractors are required to provide information on contract performance" (only 16).

16 jurisdictions required the inclusion of transparency provisions in the contract whilst only 14 respondents said that "suppliers and contractors are required to disclose the name of subcontractors they work with".

What actions has your government taken to promote transparency when outsourcing public service contracts?	
Transparency provisions are required in the contract	16
Suppliers and contractors are required to provide information on contract performance	16
Public authorities and bodies are required to proactively publish information on performance of public contracts	25
Suppliers and contractors are required to disclose the name of subcontractors they work with	14

Table 8

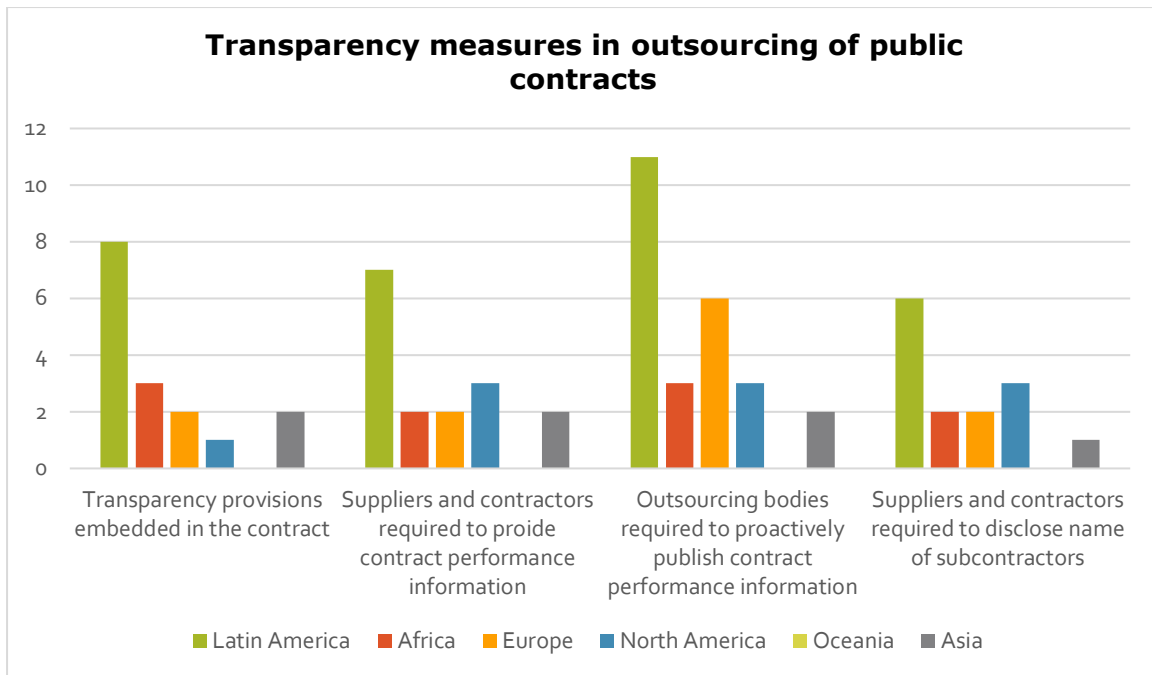


Figure 9

Question 8: In your country/jurisdiction, what measures are in place to ensure transparency and accountability of algorithmic systems purchased or developed to deliver public services?

In a context where public institutions are starting to use AI and machine learning, this question sought to collect data about how to ensure appropriate transparency and accountability measures are in place when public bodies purchase or develop algorithmic systems in the context of public service delivery.

This question scored the lowest number of responses.

The most selected option among those who responded was the requirement “to explain what kind of information the algorithmic system collects to make decisions and how” (10 responses).

This response was followed by the requirement to:

- provide information about what kind of algorithmic tools they use (8 responses);
- provide information about third parties involved in the algorithmic system (7 responses); and
- to provide accessible appeal mechanisms for algorithm-assisted decisions (7 responses).

By contrast, only 5 respondent jurisdictions responded that there was a requirement for bodies to explain why the algorithmic systems were used and to provide human oversight.

The least selected option was the one about the requirement to provide easy to understand information about the technical aspects of the algorithm.

These findings are interesting when compared with the responses given to question 2, which showed that explainability of algorithmic systems was an important transparency indicator.

The responses received to this question could suggest there is inconsistency across jurisdictions about the types of explanations needed to justify decisions made by using AI.

As an illustration of the growing attention given by oversight authorities to the use of AI by public authorities and the need for these authorities to be more transparent about their decision-making, the author of this report noted that in 2018 already, the [German Conference of Information Commissioners](#) advocated more transparency around the use of algorithms by public bodies. The author has also noted the guidance co-authored by the UK Information Commissioner’s Office in partnership with the Alan Turing Institute on “[Explaining Decisions Made With AI](#)”, which identifies six types of explanations, although not all of them are required when it comes to explain decisions made by using AI.

From the second part of the report, it is clear that some jurisdictions are becoming aware of the issue and are taking steps to raise public bodies’ awareness of the access to information responsibilities when using AI to make decision or deliver public services.

In your country/jurisdiction, what measures are in place to ensure transparency and accountability of algorithmic systems purchased or developed to deliver public services?	
Bodies are required to provide information about what kind of algorithmic tools they use	8
Bodies are required to explain why the algorithmic system is being used	5
Bodies are required to explain what kind of information the algorithmic system collects to make decisions and how	10
Bodies are required to provide easy to understand information about the technical aspects of the algorithmic system	4
Bodies are required to provide information about third parties involved in the algorithmic system	7

Bodies are required to provide human oversight to the algorithmic system	5
Bodies are required to provide accessible appeal mechanisms for algorithm-assisted decisions	7

Table 9

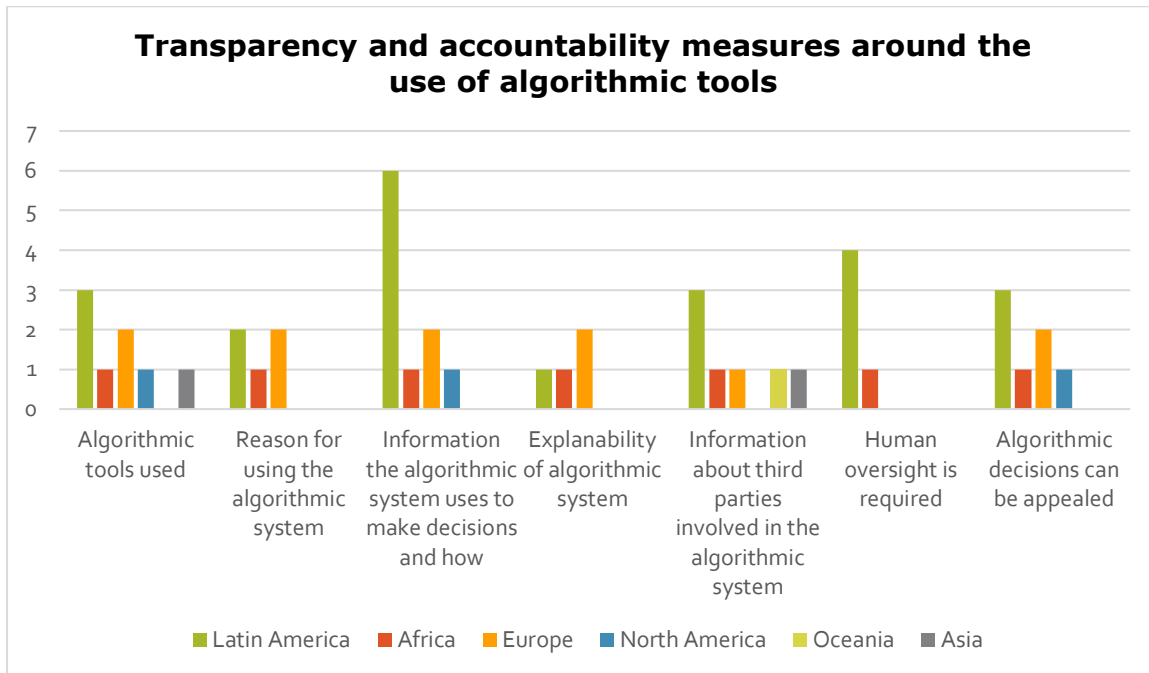


Figure 10

Question 9: In your country/jurisdiction, what measures have been implemented to make public information available in an open and re-usable format?

The aim of this question was to track patterns in measures supporting open data initiatives.

The responses clearly indicated that:

- overall, datasets of public information are published (32 responses);
- there are national databases to search for them (25 responses);
- these databases are regularly updated (23 responses).

However, the response rate was lower when it came to:

- Interoperability measures (19 responses); and
- The availability of free tools to assist in the analysis of the data (14 responses).

In your country/jurisdiction, what measures have been implemented to make public information available in an open and re-usable format?	
Datasets of public sector information are published in open and re-usable format	32
National databases of public data sets are available	25
National databases of public data sets are regularly updated	23
Interoperability measures are in place	19
Tools (eg. softwares) are made freely available to analyse open data	14

Table 10

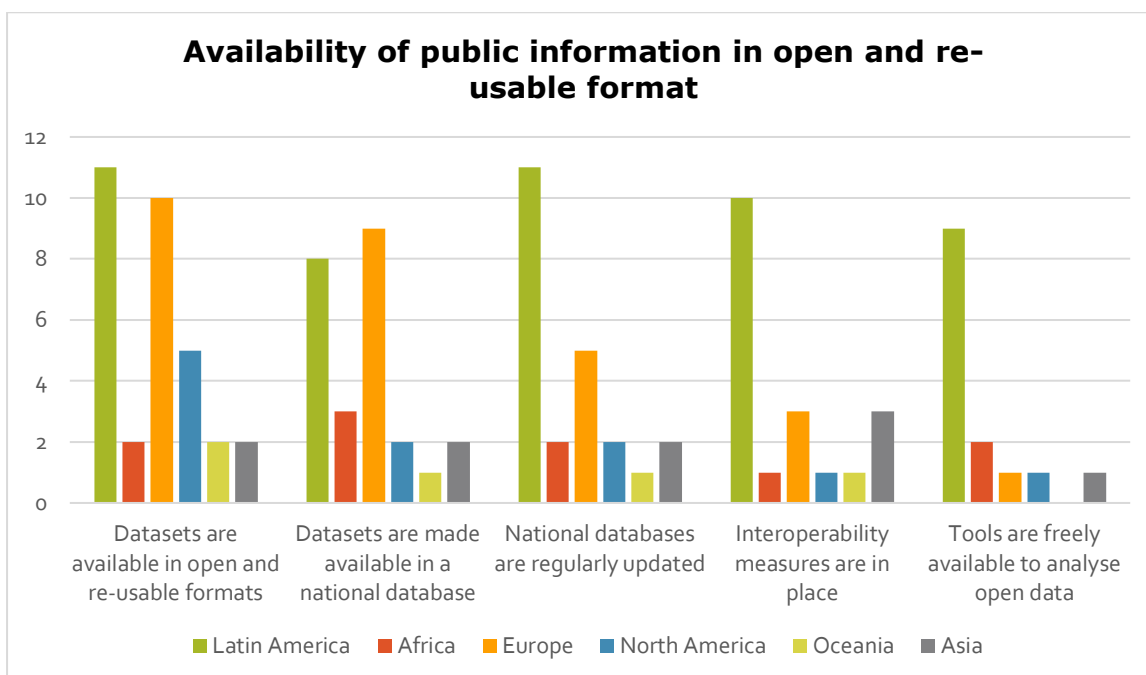


Figure 11

Question 10: In your country/jurisdiction, what are the key risks which have arisen when implementing transparency measures?

Transparency does not exist in a vacuum. It exists within a wider legal and socio-economic context where other legitimate interests exist. This can create a tension between the push for greater transparency and the risks transparency can pose in other areas ([OECD, 2022](#)).

Recognising this, this question sought to gather data about the perceived risks associated with the implementation of transparency measures.

The most selected option (30 respondents) was the risk to privacy. This was followed by risks to national security (16 responses) and fraud risks (12 responses).

Ten respondents selected the option "other" and some used the free text box to further elaborate on the answers given. The free text box answers can be broken down as follows:

- 4 respondents from Latin America, Europe and Oceania believed that transparency measures could have a negative impact on public authorities' resources and workload. In particular, in the context of reactive openness¹, it was highlighted how the right of access can be misused or, sometimes, abused by applicants. This is the case when applicants make numerous or repetitive requests or when they request a high volume of documents or records;
- 1 respondent from Latin America suggested that transparency measures can be negatively correlated to building trust in public authorities;
- 1 respondent from Latin America highlighted the technical issues which could affect transparency portals² as well as the associated increased cybersecurity risks;
- 1 respondent from Latin America mentioned the potential risks to statistical and banking confidentiality as well as risks of breach of confidentiality in the context of judicial proceedings and taxation;
- 1 respondent from Europe shared information about the security risks associated with transparent AI systems. That is, making information available about the way in which the AI systems works and the training data used could make the system more vulnerable to attacks.

¹ The expression "reactive openness" is used to indicate the release of public information in response to access to information requests.

² By "transparency portals" we mean those online platforms which enable applicants to submit access to information requests on line as well as allow them to search information which has already been made available.

In your country/jurisdiction, what are the key risks which have arisen when implementing transparency measures?	
Privacy risks (eg re-identification, sharing of privacy sensitive information)	30
Fraud risks (eg bid rigging, price fixing, conflict of interests)	12
National security risks (eg collation of public information by hostile actors)	16
Other	10

Table 11

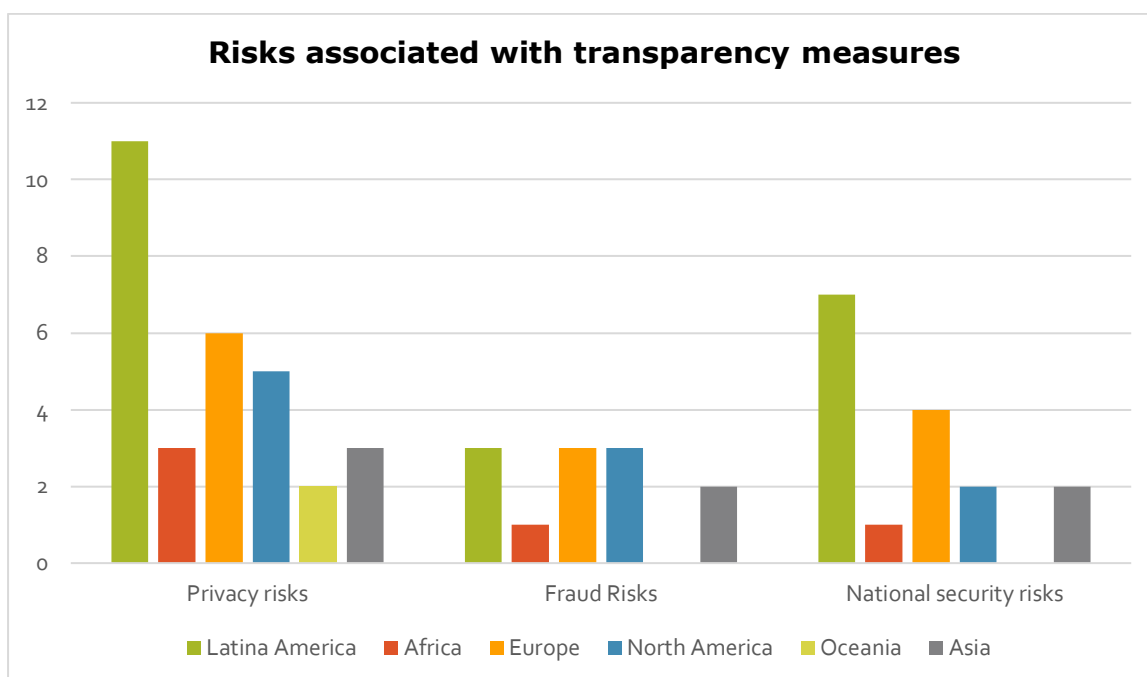


Figure 12

Question 11: How were these risks mitigated?

Exemptions were a common mitigation measure to perceived risks associated with the implementation of transparency initiatives.

Exemptions are perceived as safeguards embedded in the legislation which allow a balance to be struck between the public interest in transparency and the protection of other legitimate interests, where striking such a balance is deemed necessary.

Among respondents who selected national security as a risk area, three highlighted exempting information relating to national security as a mitigation measure.

The negative impact on resources caused by repeated or manifestly unreasonable requests were also mitigated by having procedural safeguards in place allowing public bodies not to comply with this type of requests.


In the context of protecting personal information, common ways to defuse privacy risks were:

- Data anonymisation;
- Redacting personal information prior to making disclosures or publishing information proactively.

The existence of a legislative framework regulating the collection and use of personal data was also commonly considered as an effective counterbalance to freedom of information legislation and open government initiatives.

One respondent also highlighted the benefits of having one single regulator responsible for overseeing both data protection and freedom of information legislation. Having remit over both frameworks was considered as facilitating “balancing the two complementing rights” – i.e. the right to know versus the right to the protection of personal information.

Issuing guidance for public bodies on how to effectively publish or disclose public information whilst safeguarding privacy was also an important mitigation measure, especially to offset the risk of re-identification in the context of big data and the existence of more sophisticated data analytics techniques.



“If you publish personal information as part of Open Government, you have no control over how it may be used and by whom. There is nothing to prevent its use in profiling, data mining, and other activities that may have significant privacy implications for the data subjects. The growth of big data, with its ability to pull together and analyze disparate information, has heightened privacy concerns about the public disclosure of personal information or information that has not been sufficiently de-identified.”

Information and Privacy Commissioner of Ontario, [open-gov-privacy.pdf \(ipc.on.ca\)](#) [page. 7]

In terms of fraud prevention, respondents highlighted that the primary means for offsetting the risk of fraud comprised of policies and controls in the area of public procurement. These included declarations on conflict of interests, policies to regulate the tendering process and online reporting of procurement exercises.

At the same time, some respondents felt disclosing commercially sensitive information is not desirable. However, this was also catered for through the existence of relevant exemptions in freedom of information legislation and information sharing agreements with third party.

As revealed in the answer to question 10, risks to data and digital security were also an emerging area of concern. A common way to manage risk in this area was to have IT and information security governance frameworks in place.

Only one respondent – the **US** Office of Government Information Services – indicated the existence of a comprehensive federal legislative framework to manage information security. This is the [Federal Information Security Modernization Act of 2014](#). The Act amended existing legislation, and provides federal government agencies with a modernised framework for managing and dealing with cybersecurity incidents.

Risks to privacy and data security were highlighted also in the context of the use of AI systems. To help organisation manage these risks, one respondent – the **UK** Information Commissioner’s Office – said it had produced guidance for technical specialists on [how to assess security and data minimisation in AI](#).

Finally, a few respondents – mostly from Latin America – stressed the role played in risk mitigation by activities aimed at:

- Raising awareness across relevant stakeholders groups, and
- Enhancing capacity building for staff of both regulated and regulatory bodies.

Question 12: As a regulator, what are you doing to encourage the adoption and implementation of transparency measures?

A key role of regulatory bodies is to ensure compliance with access to information legislation.

Responses show that a key aspect of this role includes producing regulatory products aimed at promoting good practice and making recommendations as to the adoption and implementation of transparency measures.

Soft regulatory action in this area consists mainly in:

- publishing guidance with the aim of:
 - giving advice to public bodies on how to correctly process access to information requests (34 responses);
 - helping citizens to exercise their right of access to public information (34 responses);
- advising government about desirable transparency measures (31 responses);
- publishing guidance about the type of information public bodies should make proactively available to the public (29 responses).

As a regulator, what are you doing to encourage the adoption and implementation of transparency measures?	
Publishing guidance for public bodies on how to handle access to information requests	34
Publishing guidance for public bodies about what information to make proactively available to the public	29
Making recommendations to government about desirable transparency measures	31
Publishing guidance for the public to facilitate access to public information	34
Other	14

Table 12

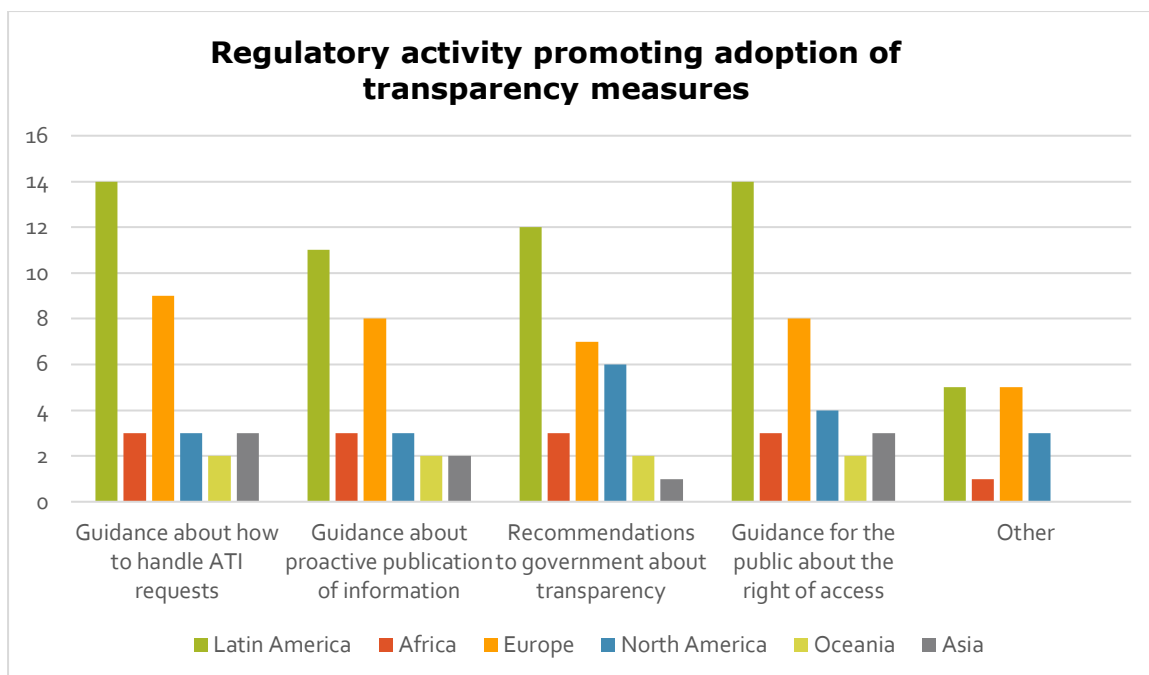


Figure 12

The open text responses reveal the existence of a variety of initiatives in the following areas:

- **capacity building and capacity development** via the provision of detailed guidance and by investing resources into identifying areas for change or the need for new kinds of regulatory support.

Examples include:

- **Hungary** – in 2019, the National Authority for Data Protection and Freedom of Information (“NAIH”) was successful in bidding for a governmental grant to undertake a [research project](#) on “Mapping out the Hungarian practice for freedom of information and the improvement of its efficiency”. The project brought together a team of 60 experts led by NAIH. As highlighted by the authority in their response to this survey, the research’s outputs will comprise of: a) the creation of a new and independent FOI information platform and b) the development of proposals to decision makers for reforming the national FOI regime through the adoption of both legal and not-legal measures.
- **England and Wales** – the UK Information Commissioner’s Office (“ICO”) invested resources into the creation of two new teams to complement its casework resources:

- An FoI Policy team was established in 2020 to lead on updating and creating new guidance for public bodies on how to comply with access to information legislation, including guidance on the type of information the ICO would expect public bodies to proactively publish.
 - An Upstream Regulation team was established in 2022 to provide more targeted practical support for FoI practitioners and officials to perform in line with their statutory duties and prevent breaches from occurring.
- **Brazil** – the Office of the Comptroller-General of Brazil (“CGU”) developed a range of guides to support public bodies to comply with access to information legislation. This includes guides on [Publishing the List of Classified and Non-Classified Information and Statistical Reports](#) and the [Active Transparency Guide](#).
- **North Macedonia** – the Agency for the Protection of the Right to Free Access to Public Information delivers educational workshops to public bodies and applicants to share examples of best practices when adopting and implementing transparency measures.
- **Awareness-raising** about the right of access to information:
 - **North Macedonia** – the Agency for the Protection of the Right to Free Access to Public Information has produced short [video tutorials](#) on how to access information from public bodies under the legislation.
 - **Scotland** – the Scottish Information Commissioner’s Office (“SICO”) seeks to promote awareness of ATI both reactively through its newsletter as well as proactively by organising meetings and delivering presentations aimed at both applicants and public bodies.
- **Recommendations, legislative audits and other regulatory measures:**
 - **Scotland** – SICO shared two examples of regulatory measures aimed at fostering good ATI practices and proactive transparency. These are:

- [Model Publication Scheme](#). Under Scottish ATI legislation, public bodies are required to publish certain public information proactively. This duty is referred to as the duty to have a “publication scheme”. The Scottish Information Commissioner has produced a Model Publication Scheme which lists nine categories of information public bodies in Scotland are expected to make proactively available.
- [Interventions procedure](#). Where a Scottish public body is failing to meet its legal obligation under ATI legislation, SICO can begin the intervention procedure to help the public body improve its performance.
- **Kenya** – Commission on Administrative Justice (Office of the Ombudsman) recommends the appointment of an Information Access Officer to be the main point of contact with the Commission when investigating complaints.
- **Québec (Canada)** – the Commission d'Accès à l'Information shared two reports outlining its recommendations on how to [improve the regime of access to public documents](#) and [timeliness of responses to access to information requests](#).
- **England and Wales** – similarly, the ICO has in recent years laid two reports to Parliament which included recommendations on how to improve the existing ATI regime:
 - [Behind the Screens - Maintaining Government transparency and data security in the age of messaging apps](#) (July 2022). This report called for a review of governmental use of non-official channels of communication – such as private emails and instant messaging applications – which can endanger the integrity of public information, thereby creating risks to transparency and accountability within government.
 - [Outsourcing Oversight? The case for reforming access to information law](#) (January 2019). This report called on Parliament to extend coverage of access to information law to private organisations delivering a public function.

- In addition, when it identifies systemic failures in public bodies' compliance with the [Freedom of Information Code of Practice](#) or and [Record Management Code of Practice](#), the ICO can issue non-compliant public bodies with a '[practice recommendation](#)' outlining the steps to be taken by the authority to conform.
- **Switzerland** – the *Préposé Fédéral à la Protection des Données et à la Transparence* (PFPDT) conducted three audits into the operation of the country's ATI legislation, resulting in three reports available on the authority's website: [Evaluations de la LTrans \(admin.ch\)](#).

When dealing with issues of non-compliance, the PFPDT will initially conduct mediation to find a solution. When mediation attempts are unsuccessful, the PFPDT will serve a written recommendation to the parties in dispute. The recommendations are then published on the PFPDT's website, thereby serving as an example of good practice for other public bodies.

- **Online portals and repositories** – some regulators manage or maintain e-portals where applicants can submit requests for information, complaint about a public body's handling of a request, search information proactively published or search for decisions issued on complaints.
 - **North Macedonia** – the Agency for the protection of the right to free access to public information hosts a central [e-portal](#) which includes a list of the point of contact of regulated bodies from which applicants can request information electronically. Responses to requests are then made publicly available on the portal.
 - **Brazil** – [Fala.BR - Plataforma Integrada de Ouvidoria e Acesso à Informação \(cgu.gov.br\)](#). This is an integrated online platform through which Brazilian citizens can access certain digital services, including submitting access to information requests and track the lifecycle of the request. The data in the Fala.BR platform feeds into the [LAI Dashboard](#) which shows live the number of requests received by the Federal Executive Branch's agencies, average time taken to respond and overdue requests ("omissions"). CGU is responsible for

monitoring this information and can take action against agencies which are failing to issue timely responses to access to information requests.

- **Peru** – [Compendios - Ministerio de Justicia y Derechos Humanos - Plataforma del Estado Peruano \(www.gob.pe\)](#). This is a repository of decisions issued by the *Tribunal de Transparencia y Acceso a la Información Pública* on access to information complaints. The engine allows searching for decisions by filtering by public body, subject of the request and outcome.

Part II – Questions 13 to 17

The second part of the survey was aimed at gathering concrete examples of transparency measures implemented in respondents' jurisdictions. Respondents were also asked to feedback indicators of impact and success as well as any challenges they experienced during the implementation process.

The response rate to questions in Part II was lower than the response rate to the questions in Part I.

Question 13: Please provide examples of a concrete initiative in your country which embedded transparency from the outset of a new system, service or process being developed ('transparency-by-design')

In terms of examples of transparency, from the responses received, we can identify common trends in the following areas:

1. Increasing transparency through reactive openness.

Initiatives in this area focussed on ways to facilitate **a)** applicants' access to public information on a reactive basis and **b)** publication of information provided in response to submitted FOI requests.

Integrated online FOI portals and platforms seem to play a key role in this. Often managed or created by the regulators, common features of these integrated portals include:

- A searchable register of relevant public bodies, including contact details;
- A searchable repository of information made available in response to access to information requests. Different filtering options are available to help refining the search – theme, sector, name of the public body, status of the request (successful, unsuccessful, awaiting clarification) etc. Some sites also integrate the database of open data made available by public bodies or linked to an external site;
- A function for submitting information requests to public bodies electronically;
- A function for submitting a complaint electronically to the regulatory/supervisory authority;
- A feature allowing applicants or complainants to track in real time the status of their request or complaint.

Examples include:

- **Albania** – The Information and Data Protection Commissioner (“IDP”) partnered with the Open Society Foundation for Albania to develop [Pyet Shtetin – Pyet Shtetin](#) (“Ask the State”).

To access the service, applicants have to create an account or can log in by using their Facebook or Google credentials.

This online platform exists alongside a twin system that IDP developed in partnership with the National Agency of Information Society which is hosted on the e-Albania site where applicants can also submit access to information requests to central and local government agencies or complaints to the Commissioner.

The intended aim of these co-existing portals is to broaden the portfolio of mechanisms available to applicants to exercise their right to access public information.

- **The Philippines** – The Freedom of Information Programme Management Office manages the [eFOI - Electronic Freedom of Information](#) platform. An app version is also available.

Since July 2022, a new feature called the ‘recommender system’ has been incorporated in the portal. The new feature matches the request submitted through the portal with the

public body most likely to hold the information. The Freedom of Information Programme Management Office partnered with the Asian Institute of Management to develop the new feature with the aim to reduce the number of requests which are refused because of having been submitted to the incorrect public body.

The Freedom of Information Programme Management Office expected the system would help reduce by 84% delays resulting from applicants submitting their request to the wrong public body. The Office also expected that this would translate in an efficiency gain equivalent to the work of 6.5 FOI officers.

Applicants do not appear to have to create an account to submit their request.


- **Mexico** – the National Institute of Transparency, Access to Information, and Personal Data Protection (“INAI”) launched the [National Transparency Platform](#) in May 2016. To request information or file a complaint, users are required to create an account. Alternatively, they can log in by using their social media accounts such as Twitter or Facebook.
- **República de Panamá** – [Smart CID](#) is the central online platform managed by the *Autoridad Nacional de Transparencia y Acceso a la Información*.

Another issue that has emerged in the area of reactive openness was the need to safeguard applicants’ right of access in the context of digital government and public bodies’ increased shift towards automated decision-making.

For example, the Information and Privacy Commission (“IPC”) of **New South Wales (Australia)** shared two short pieces of guidance about guaranteeing and preserving citizens’ information access rights in the context of digital government:

- [Creating new records under the GIPA Act August 2022](#): Section 75 of the Government Information (Public Access) Act 2009 (“GIPA Act”) allows public bodies to create new records in response to an information access request. This non-mandatory provision recognises that existing recorded

information can fall short of addressing the request or disclosure in its existing form is against the public interest.




“If the most appropriate way to release the information is by creating a new record, the agency should consider creating the new record, because this is consistent with the object of the GIPA Act”

Information and Privacy Commission of New South Wales,
[Creating new records under the GIPA Act August 2022](#), p.1

- [Automated decision-making, digital government and preserving information access rights for citizens August 2022](#): In this short guidance, the IPC clarifies that citizens’ right of access to information under the GIPA Act extends to information about decisions taken by using automated decision-making systems and explains public bodies’ obligations under the Act to ensure access to digital government information.

2. Proactive Transparency

Proactive publication of information was an important component of transparency initiatives.



“It is important in looking at this not to forget the way in which RTI laws, and particularly those which include proactive publication duties, may themselves be viewed as embedding transparency from the outset. The creation of national registers and databases and open data initiatives may also fall into this category.”

Scottish Information Commissioner

Respondents shared examples of various initiatives aimed at making certain type of information proactively available to the public. This was the case especially for information about:

- Public spending and public finances, with particular focus on financial and fiscal transparency;
 - Public procurement when outsourcing to private contractors;
 - Declaration of conflict of interests;
 - Judicial and regulatory decisions;
 - Environmental information.
- **North Macedonia** – the Agency for the Protection of the Right to Free Access to Public Information highlighted the existence of the following initiatives:
 - “[Open Finance Portal](#)” – launched in 2019, the e-portal makes information about government’s transaction proactively accessible to the public. Prior to 2019, this information was only available upon request.
 - <https://e-nabavki.gov.mk> – an ‘e-market’ platform where data about public procurement of goods and services are published, including ‘red flags’ and ‘negative references’ linked to some providers.
 - [Transparency – UstavenSudMK](#) – Information made proactively available by the Constitutional Court of North Macedonia.
 - [Home \(fiscaltransparency.org.mk\)](#) – an online database where the public can access information about fiscal transparency. The website is managed and maintained by a civil society organisation, the Association for emancipation, solidarity and equality of women (“ESE”).
 - **Malawi** – all public contracts have to be registered on the “information portal” of the Office for Public Procurement, which is accessible to members of the public. Contractors in the construction industry are required to publicly declare contracts won on the portal government.
 - **Mexico** – a change to section 2, article 73 of the General Law on Transparency and Access to Public Information now requires courts to publish all their rulings. To that end, judicial agencies have

adopted a software “ELIDA” which can automatically redact personal details from judicial sentences prior to their release into the public domain.

- **Israel** – duty to proactively publish governmental expenses in open format on a quarterly basis.
- **Victoria (Australia)** – all public bodies have a duty to proactively publish information about public procurement for works exceeding \$100,000 within 60 days of the award of the contract. The guidance on [publishing details of procurement undertaken](#) explains the type of contracts which require disclosure, the type of information which must be disclosed and what information can be withheld.

Further, in March 2020, the Victoria Government passed a new [Local Government Act 2020](#). The Act includes provisions to increase the transparency of councils’ decisions such as the requirement to adopt and maintain a “public transparency policy” to give effect to the public transparency principles outlined in section 58 of the Act.

The Office of the Victorian Information Commissioner (“OVIC”) publishes de-identified notices of decisions on its own website as well as on the Australasian Legal Information Institute (AustLII). OVIC has also published the [FOI Professional Standards Framework](#) outlining in an open and transparent way its approach to regulating public bodies’ compliance with the [Professional Standards](#), which OVIC can produce in accordance with section 6U of the Freedom of Information Act 1982 (Vic) to provide further guidance for public bodies on how to comply with their duties under the Act.

- **Argentina** –
 - **Ciudad Autónoma de Buenos Aires** – [Climate Action BA](#): this is an initiative to make environmental information on renewable energy, sustainable mobility and waste management and disposal publicly available. There is a similar initiative which focusses on making publicly available information about public policies, programs and projects developed in the City to promote [gender equality](#).
 - **Agencia de Acceso a la Información Pública (“AAIP”)** – [MapaInversiones](#) – this is a platform which allows citizens to visualise maps of public works and projects with the aim to “promote transparency and stimulate the participation and

control of citizens in public spending". It can be searched by type of work and sector – information and data are added incrementally and are sourced from the *Ministerio de Obras Públicas* ("Minister of Public Works"). The initiative is driven by Banco Interamericano de Desarrollo ("BID", the Inter-American Development Bank in English).

Similarly, the [Mapa de la Acción Estatal](#) is a central platform to make public information available on several topics from economic development to education and science and technology. This initiative is part of the *Estrategia Nacional de Integridad* ("National Integrity Strategy") which aims at promoting policies to prevent corruption and foster transparency in public administration.

- **Peru –**

- Declarations of conflict of interests: the Law no. 31227 on *Declaración Jurada de Intereses* introduced an obligation for all public officials and civil servants to provide an affidavit of no conflict of interest to demonstrate the absence of interests which could undermine their independence whilst in office. All declarations must be published online: [Sistema para las Declaraciones Juradas para la Gestión de Conflicto de Intereses](#).
- Reports about public bodies published by the *Contraloría General de la República*. The *Contraloría General de la República* is a state agency responsible for supervising and verifying the correct application of public policies and the use of State resources and assets. The agency's reports are subsequently published online on [Buscador de Informes de Control | Contraloría Perú](#). Citizens can search for both any report initially made on a supervised public body as well as the *Controlaria's* follow up on the recommendations made to the public body.

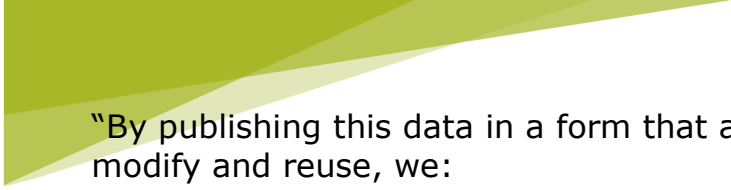
- **República de Panamá –** national platform on 'proactive transparency': [Plataforma de monitoreo de transparencia](#). The platform allows citizens to search through relevant information proactively published by more than 190 institutions. The information can be searched thematically – e.g. public finances, environmental information and climate transparency, open data and datasets available for download, public infrastructure. The platform

also includes a section which rates public bodies based on their 'transparency performance'. Applicants can also use the same platform to ask for information upon request.

- **Kenya** – the Commission on Administrative Justice (Office of the Ombudsman) developed an online monitoring tool on proactive disclosure which crawls through governmental agencies' websites to check compliance with proactive disclosure requirements under the Access to Information Act 2016.

Some respondents shared examples of transparency initiatives in the context of the management of the Covid-19 health emergency. For example:

- **Argentina, Ciudad Autónoma de Buenos Aires** – data about the pandemic and measures in place to contain it were published online [Coronavirus | Buenos Aires Ciudad - Gobierno de la Ciudad Autónoma de Buenos Aires](#). This included publishing information about [procurement and public spending](#) during the health emergency, which includes access to the register of affidavits of no conflict of interests which suppliers and contractors were required to declare to participate in the public procurement process of goods and services needed to manage the emergency.
- **England and Wales** – In November 2021, the ICO published a report on [Covid-19 and Information Rights](#). The UK Information Commissioner welcomed some of the innovations put in place at both national and local level to proactively publish information about the response to the pandemic. This included:
 - The UK Government's daily briefs about how the pandemic was progressing;
 - The publication of [Coronavirus \(COVID-19\) in the UK](#) on the data.co.uk website;
 - Daily statistics released by the four UK nations (England, Northern Ireland, Scotland and Wales) about cases, hospitalisation, deaths and vaccination rates.
- **Mexico** – INAI partnered with the Ministry of Health to create a micro website, [coronavirus.gob.mx](#), to search relevant information about the pandemic. This included an application to make it easier for citizens to geolocate hospitals.



“By publishing this data in a form that anyone can access, modify and reuse, we:

- contribute to a more transparent and accountable society
- support the development of new technologies and services
- stimulate the economy”

Victoria Government (AUS) [What is open data? | Data Vic](#)

3. Open government initiatives

The [OECD’s Open Government Highlights report](#) 2016 defines open government as a “a culture of governance based on innovative and sustainable public policies and practices inspired by the principles of transparency, accountability, and participation that fosters democracy and inclusive growth” (OECD, 2016:1).

The responses received show that open data and public engagement initiatives are an important cornerstone of open government strategies.

Open data

The [Open Data Handbook](#) defines “open data” as data which “can be freely used, re-used and redistributed by anyone - subject only, at most, to the requirement to attribute”.

There were several examples of open data initiatives:

- **Victoria (Australia) –**

“[Data Vic](#)”: the platform allows the search of a variety of open data made available by the Victorian Government, including spatial data and application programming interfaces (“APIs”). There are also resources for both data users and data publishers on relevant [access policies](#) and standards for re-use.

- **North Macedonia –**

- [datagovmk](#): the official Government's open data website providing access to public datasets in downloadable and re-usable format. The website includes a page for users to share analysis and research findings produced by using public datasets.
- [Почетна | Open Data](#): this site is managed by a non-government organisation, the Center for Civil Communications.

- **Uruguay –**

[Datos Abiertos | Sitio oficial de la República Oriental del Uruguay](#) : Uruguay's government open data website. The website includes a section which allows tracking data usage.

- **Portugal –**

[dados.gov.pt - Portal de dados abertos da Administração Pública](#): open data is made available on a variety of topics with the aim of:

- increasing transparency and public accountability to the electorate;
- increasing the efficiency and effectiveness of public bodies by allowing them to easily access useful public information to deliver their legal functions;
- facilitating the re-use of public information by the corporate sector in order to create high commercial value IT applications, electronic platforms or services delivery;
- facilitating the re-use of public information for journalism, academic research or NGO's purposes.

- **Bangladesh –**

[Bangladesh Open Data | Data For All](#). Bangladesh's open data initiative rests on the premise that data shall be:

- made easily accessible;
- available for co-creation;
- released in a timely manner;
- shared in a machine-readable format;
- made available in a "raw" form.

Users can search and download data in a variety of formats, browsing by topic (economy, finance, education etc) or name of the organisation which made the data available.

- **República de Panamá –**

[Grupo de Trabajo de Datos Abiertos Panamá](#): ANTAI partnered with the *Autoridad Nacional para la Innovación Gubernamental* (National Authority for Government Innovation) to create the Panama Open Data Working Group.

The aim of the working group is to “prepare national action plans that establish the diagnosis, the road map and the training and dissemination strategies, with the aim of stimulating publication and re-use, as well as the commitments adopted with public institutions.”

The working group pools from a variety of stakeholder groups, from NGOs and researchers to accredited journalists and experts from private sector organisations.

- **Brazil –**

[Portal de Dados Abertos](#): the new Open Data Portal launched by Brazil’s Federal Government on 25 November 2022. The portal seeks to encourage the reuse of open data made available by government bodies. Federal states, municipalities and third sector organizations can also join the platform to make their data available in open format.

The platform was the outcome of research, consultations, interviews and workshops carried out with a number of players in the open data ecosystem. The platform, which is managed by CGU, aims to meet the needs of publishing bodies and entities as well as to improve users’ experience.

In addition to open data initiatives existing at national level, there were also locally driven initiatives.

- **Argentina – Ciudad Autónoma de Buenos Aires**

[Datos Abiertos de Buenos Aires | Buenos Aires Ciudad](#) : the open data platform of the City of Buenos Aires where datasets can be searched thematically.

- **England and Wales –**

[Trafford Data Lab](#): Trafford Data Lab is an open data hub in the area of Greater Manchester (England). The platform includes interactive features, such as pre-set reports and area profiles, designed to encourage people and organisations to explore and use the data. Data can also be transferred onto colour coded maps to visualise information on the chosen topic e.g. child poverty, crime rates, road casualties etc.

Open data initiatives often focus on public datasets being made available in an accessible and re-usable format. However, some responses highlighted the existence of initiatives to cater for the need to ensure the quality, usability and intelligibility of data and public information.

For example, as part of its '[Open Government](#)' action plan 2021 – 2025, the **Scottish Government** made a commitment to “improve the accessibility and usability of its data and information about the public finances” with the view of creating “comprehensive, accurate, trustworthy, timely and linked fiscal information that is accessible, usable and understandable to a wide-range of users, including open fiscal data that people can easily reuse”.


Similarly, the **UK** Office for Statistics Regulation has recently been advocating for the need of “[intelligent transparency](#)” in the use and analysis of data for statistical purposes.

Intelligent transparency in government and official statistics rests on three principles:

- equality of access;
- enhancing understanding; and
- analytical leadership.

Public engagement to broaden participation

One common feature of open government initiatives appears to be the existence of public engagement frameworks to facilitate public participation in decision-making and democratic processes.



“Intelligent transparency is about thinking about transparency from the outset of policy development, getting data and statistics out at the right time to support thinking and decisions on an issue, supporting the wider public need for information and presenting data and statistics in a way that aids understanding and prevents misinterpretation.”

Siobhan Tuohy-Smith, Statistics Regulator: [What is intelligent transparency and how you can help? – Office for Statistics Regulation \(statisticsauthority.gov.uk\)](https://www.statisticsauthority.gov.uk/what-is-intelligent-transparency-and-how-you-can-help/)


That is, making public information available might not in its own be conducive to greater transparency and accountability. Greater transparency and accountability need a dynamic interplay between making public information available and mechanisms to make people aware of its accessibility and availability as well as to promote citizens' involvement in the public debate as informed participants.

Examples of these initiatives include:

- **Mexico – Estado de Mexico**
Creation of “[secretariados técnicos municipales](#)” – these are multi-stakeholders engagement forums established at municipal levels to enable dialogue between council authorities, officials and civil society representatives. The aim is to create a space for discussing the design, implementation and monitoring of Open Government actions and commitments.
- **Victoria (AUS) –**

[Engage Victoria](#): an online consultation platform provided by the Department of Government Services which provides a range of tools to enable the community to participate in the development of government policies and programs and share their ideas and opinions on a range of issues and topics. Victoria Government launched a new [Public Engagement Framework](#) in 2021.

4. Transparency in digital projects



“Legislated rights remain **inalienable** notwithstanding the transition to digital government and outsourcing arrangements that promote enhanced use of technology and data”

IPC New South Wales’s fact sheet on access to information when implementing [digital projects](#)

Technological developments have enabled organisations, including public bodies, to rely on technological solutions to deliver services or functions.

The use of virtual assistants by public bodies is an example of this.

For instance, the *Órgano Garante del Derecho de Acceso a la Información* of the **City of Buenos Aires (Argentina)** shared its experience of the use of ‘Boti’, a virtual assistant with which citizens can interact with to receive help ‘on the go’. Boti is an automated chatbox which uses artificial intelligence to provide simple answers to queries. Citizens can interact either via a webpage or through a smartphone.

Similarly, the ‘recommender system’ that the **Philippines’** Freedom of Information Programme Management Office built into the eFOI platform uses AI and a machine learning algorithm to match FOI requests to the most appropriate public body.

However, when such solutions are used, they should not erode transparency nor the right of access to public information.

The Information and Privacy Commission of **New South Wales (Australia)** and the **UK** Information Commissioner's Office shared two examples of ways to avoid this.

- **Information and Privacy Commission of New South Wales** has produced [guidance](#) about what public bodies are expected to do to guarantee citizens right of access to information created as part of a digital project;
- **UK Information Commissioner's Office** adopted and piloted the [Algorithmic Transparency Recording Standard](#) developed by the Central Digital and Data Office in partnership with the Centre for Data Ethics and Innovation when implementing the [Registration Inbox AI](#). The Registration Inbox AI is a machine learning algorithm which categorise emails sent to the ICO's registration inbox and sends out auto-replies in specific cases.

Question 14: What made this initiative successful?


Not all respondents could give an answer to this question. This is because some initiatives were at an early stage of development.

Members who did respond to this question highlighted the following as success factors:

- **Efficiency and regulatory gains.**

For example, integrated FoI online portals appear to:


- Build capability and lead to a more effective use of resources. This is because the portals provide a single gateway for applicants to submit both requests for information and complaints to regulators whilst also allowing to track live the status of their applicants/complaints.



“the great advantages of the platform lie in the possibility of incorporating multiple services, the speed in integration implementation times and low maintenance costs, which allows easy scalability”

*Órgano Garante del Derecho de Acceso a la Información,
Ciudad Autónoma de Buenos Aires (Argentina)*

- Reduce the risk of dispersing information whilst ensuring consistency in published information and reporting.




“The decision of the Executive Branch to create a Unified State Portal for the entire Central Administration obliges the Ministries and Secretariats to place the information on their public sites following homogeneous criteria. The ‘Arquitectura de la Información FIJA’ for transparency information defines the same format and criteria for all organizations.”

Unidad de Acceso a la Información Pública (Uruguay)

- In some cases – such as LAI Dashboard in Brazil – the portal allows regulators to have direct visibility of public bodies performance, thereby ensuring they could take proactive regulatory action where needed.

- **Development of synergistic relationships and collaborative partnerships.**

Some initiatives resulted from a multi-stakeholder approach which allow regulators or governmental agencies to partner with a diverse range of stakeholders. This means the initiative was developed by pooling relevant expertise whilst facilitating knowledge exchange and the inclusion of different perspectives.



“The platform [ie Portal de Dados Abertos] (...) is the result of a series of studies, consultations, interviews and workshops carried out over the last few years with players in the open data ecosystem and aims not only to fill gaps related to the work of publishing bodies and entities, but also improve the user experience”

Controladoria-Geral da União (Brazil)

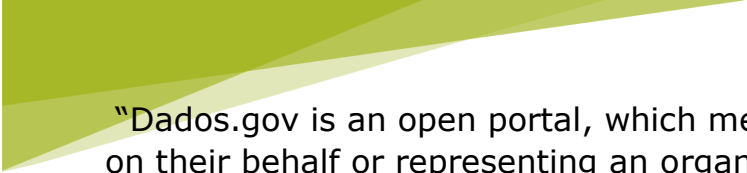
Developing new initiatives by involving at an early stage relevant stakeholders also helps building consensus around them, minimising the risk of a disconnect between what government and regulators are trying to achieve on the one hand and the needs of public bodies, applicants and other key agents on the other.

The *Instituto de Transparencia, Acceso a la Información Pública, Protección de Datos Personales y Rendición de Cuentas de la Ciudad de México* also highlighted the importance of “cooperative federalism”³ as a positive force driving some of the initiatives in the country.

- **Unlocking and diffusing knowledge.**

A key success factor behind open data initiatives was the extent to which making data available in open format on an interactive and easy to search central platform unlocks the potential for further knowledge creation and sharing.

³ That is the cooperation between Mexican federal regulators and the national regulator (INAI).



“Dados.gov is an open portal, which means that any user, on their behalf or representing an organization, may create an account and load data, so they are shared with the community, under open licenses. It also provides several interaction mechanisms between data suppliers and re-users, such as the possibility to comment, submit complementary data versions and suggest improvements to the platform.”

Comissão de Acesso aos Documentos Administrativos (Portugal)

Question 15: Was it possible to measure the impact of this initiative?

In most cases, the impact of the initiatives was measured by:

- tracking trends in compliance and delivery against agreed objectives;
- monitoring usage of a system;
- evaluating effectiveness in terms of efficiency gains or changes in public awareness measured through surveys or increases in access to information requests.

Examples included:

- The Information Regulator (**South Africa**) conducts independent annual surveys about citizens’ awareness of their access to information right;
- The Freedom of Information Unit (**Israel**) tracks demand for the quarterly published reports on governmental expenses. Similarly, INAI (**Mexico**) monitors and reviews the publication of courts’ decisions to measure compliance with the law;
- The *Instituto de Transparencia, Acceso a la Información Pública, Protección de Datos Personales y Rendición de Cuentas de la Ciudad de México* reported measuring impact by :
 - Tracking the number of access to information requests ;

- monitoring visitors' traffic on the regulator's website and microsites as well as the number of followers on the regulator's social media accounts.
- Similarly, IDP (**Albania**) monitored usage trends on the Pyet Shtetin portal, noting that "a considerable number of citizens and various stakeholders have used this form to reach out to public authorities";
- In the context of open data initiatives, a common way to measure impact was by tracking usage through statistics on the number of downloads (e.g. **Brazil**) or by monitoring the extent of re-use and the quality of outputs produced by re-using public datasets (e.g. **Portugal**). For example, the *Comissão de Acesso aos Documentos Administrativos* (**Portugal**) reported that public datasets made available on Dados resulted in a number of high quality studies bringing added value for the country as a whole, e.g. the Analyses of Forest Fires in Portugal.
- The Office of the **Victoria** Information Commissioner shared that measuring the impact of publishing their decisions accurately is difficult. However, the regulator commented that:
 - “the reduction in the number of applications for review to OVIC can be attributed to the publication of Notices of Decision due to an increased awareness as to how the FOI Act is administered. Further, published decisions are frequently used to encourage an agency to reconsider its position and make a fresh decision which often results in further information being released to an applicant. Based on number of views as recorded on AustLII, we can see OVIC's decisions have been accessed over 14,000 time in the last 12 months which highlights the level of engagement with them.”

Q16: What were the key challenges when implementing it?

Although the overall impact was considered successful, respondents highlighted various implementation challenges.

These challenges can be grouped as follows:

- **Accessibility and functionality** of FoI portals coupled with compatibility challenges when trying to integrate new functions into

the system. When AI systems were used, there was the additional challenge of keeping machine learning training data up to date to ensure reliability.

IDP (**Albania**) also flagged the challenge stemming from the need to keep the online portals secure, including by taking appropriate security measures to reduce the risk of cyber-attacks.

- **Resource constraints and capability challenges.** In particular, respondents highlighted the amount of resources needed for:
 - engagement and coordination activities, including across different state jurisdictions;
 - training staff;
 - making information suitable for proactive release by effectively removing personal data or other exempt information;
 - monitoring compliance.

One respondent also stressed the financial impact of the Covid-19 pandemic.

- **Cultural resistance to change**, especially in terms of embedding a culture of transparency where making public information available is perceived as an integral part of public bodies day-to-day business. Related to this, the *Agencia de Acceso a la Información Pública (AAIP)* (**Argentina**) said that one of the challenges in implementing [MapaInversiones](#) was creating a shift from a “traditional” notion of transparency which focusses on knowing the allocation of public resources towards a broader notion which includes also tracking outputs and results.
- **Encouraging take-up.** For example, CGU (**Brazil**) said that a key challenge in the implementation of [Portal de Dados Abertos](#) was to encourage “ the reuse of open data made available by government bodies and encourage states, municipalities and third sector organizations to join the platform, in order to make their data available in an open format”. Similarly, the *Instituto de Transparencia, Acceso a la Información Pública, Protección de Datos Personales y Rendición de Cuentas de la Ciudad de México* commented that a key challenge is to ensure not only that people are aware of their rights but also that they “internalise” them and use them routinely as a tool of participation in the democratic process.

Q17: What are the key lessons to be learned?

Respondents shared the following lessons learned:

- Online portals are conducive to greater openness which, in turn, facilitates the fight against corruption;
- Maximum transparency should be the general rule whilst secrecy is the exception;
- Regulators should be equipped with the relevant powers to ensure compliance with the law and have the ability to exercise these powers effectively;
- Concerted efforts, cross-sectoral collaboration and establishing synergistic relationship with relevant stakeholders is key;
- Citizens and civil society should be an integral part of the decision-making process, including at local and municipal level;
- Leveraging the benefits of secure and sustainable technology can help streamline access to information processes;
- Building access and inclusion into access to information process to minimise the risk of exclusion of certain groups. To this end, one respondent highlighted that knowing applicant's sociodemographic characteristics could be helpful to enable the removal of barriers to access;
- The publication of regulators' decisions should be timely to ensure both public bodies and applicants have visibility of the latest decisions on any specific issue;
- Need to ensure that information in high demand is made proactively available in a clear language and in formats applicants can access. For example by being mindful of the risk of digital exclusion.

Conclusions and next steps

The findings in this report represent a snapshot of the vast amount of information and of the many initiatives and programmes which ICIC members had referenced in their responses to the TbD WG survey.

The report constitutes a first, and important, step in the work of the working group in elaborating principles which can guide governments, and regulators, in implementing measures and technological solutions which, like those which are referred to in this report, are conducive to increasing public authorities' accountability and transparency, and in so doing, citizens' trust in public policies and their active participation in the political debate.

Following the presentation at the XIV ICIC Conference in the Philippines in June 2023, the TbD WG will proceed to the next phase of its work – reflecting on these solutions, identify shared principles to be embedded in governments' initiatives at the design stage to ensure transparency begins at source.